

Appendix E

Examples of Public Sector Action to Promote
Competition in the Solid Waste Industry

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Prepared for King County

Examples of Public Sector Action to Promote Competition in the Solid Waste Industry

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EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

This Appendix provides some examples of the importance of public action to promote competition in solid waste disposal and collection services. It was developed by HDR Engineering, Inc and Ecodata, Inc.

1. Creation of A Competitive Disposal Services Market By A Public Sector Agency Can Lead To Significantly Lower Disposal Costs For Residents and Businesses

The case studies presented below illustrate how the continued presence of a public agency in the local disposal services marketplace can ensure the delivery of competitively priced disposal services to residents and businesses.

Mecklenburg County, North Carolina

Mecklenburg County, North Carolina (population – 714,000) is responsible for ensuring that disposal capacity is available for the 1.2 million tons of municipal solid waste generated by the residents and businesses in the County.

In the fall of 2001, the County entered into a six-year contract with Allied/BFI for MSW disposal services.¹ Allied/BFI owns and operates a regional landfill in Concord, NC – about 15 miles from the city center of Charlotte, NC (the major population center in Mecklenburg County).

Under the new contract, which is in effect until June 30, 2007, Allied/BFI agreed to charge the County \$18 per ton for MSW disposal starting in the fall of 2001, with the price escalating annually using a recognized inflation index.

Allied/BFI had been providing the County with disposal services for over 10 years through a previous contract. The disposal price under the previous contract was \$32 per ton when the new contract was negotiated.

The County was able to negotiate this reduced price due to the fact that it had recently developed a new, Subtitle D landfill (the Foxhole Landfill) in the southern part of the County. This landfill was developed by the County as a disposal alternative, in part, to address the historic contractual problems between the County and Allied/BFI.

¹ Communication with Mr. Scott Brown, P.E., Manager of Solid Waste Services, Mecklenburg County Solid Waste and Recycling, (704/336-4447).

EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

Prior to the negotiation of the new contract, the County informed Allied/BFI that, once the Foxhole Landfill was opened in the Fall of 2001, the County intended to dispose of all of the County's waste at the Foxhole Landfill and that it estimated that the disposal cost at this facility would be \$18 per ton. Therefore, to justify continuing the disposal of the County's waste at the BFI Speedway Landfill, Allied/BFI would have to lower its price from \$32 per ton to \$18 per ton. Allied/BFI quickly agreed to negotiate a new disposal contract with the County at this reduced price.

In summary, the availability of a new, County-owned Subtitle D landfill created a competitive disposal services environment that resulted in a reduction in price of over 40% at the large regional private landfill used by the County.

The County is continuing to operate the Foxhole Landfill to provide disposal services for construction and demolition wastes.

Memphis, Tennessee

The City of Memphis, located in Shelby County, Tennessee, has a population of about 640,000. The City's Solid Waste Management Department provides solid waste collection services to over 200,000 residences and small businesses.² The Department utilized a landfill operated by Shelby County until the landfill was closed in 1991 with the promulgation of the new federal Subtitle D landfill regulations.

In 1991, the City entered into a 10-year contract with BFI to provide disposal services for the municipal solid waste collected by the City solid waste collection crews. BFI currently owns and operates two Class I, Subtitle D landfills in Shelby County – the BFI North Shelby Landfill and the BFI South Shelby Landfill. At the end of this contract, the City was paying BFI in the range of \$26-\$27 per ton for the disposal of municipal solid waste collected by the City.

During this timeframe, the City permitted, but did not construct, a Class I (Subtitle D) landfill in the Pidgeon Industrial Park, located in southeast Memphis. To begin contract negotiations with BFI in 2001, the City decided to solicit bids for the construction and operation of its own Class I landfill. At the same time, the City developed a cost estimate of \$15-\$16 per ton for constructing and operating its own landfill and reported this estimate to BFI.

² Information provided by the City of Memphis Solid Waste Department.

EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

As the request for bids was issued, BFI approached the City and offered to lower the disposal price charged to the City from \$26-\$27 per ton to \$15-\$16 per ton – a reduction of over 40%. The new 20-year contract, which was executed in 2001, limits the escalation of the City's 2001 disposal price of \$15-\$16 per ton to changes in the "Consumer Price Index - Urban Areas" (CPI-U).

2. Consolidation and Aggregation of Market Needs By a Public Sector Agency Can Lead to Significantly Lower Solid Waste Management Costs For Local Businesses.

The case studies presented below illustrate how actions taken by a public sector solid waste agency to consolidate and aggregate service needs can lead to significantly lower solid waste management costs for local businesses.

Village of Skokie, IL

The Solid Waste Agency of Northern Cook County (SWANCC) is a regional solid waste agency that plans and manages recycling and disposal services for twenty three municipalities in northern Cook County, Illinois.

During 1997 and 1998, the SWANCC worked with one of its municipalities – the Village of Skokie, Illinois – to implement a commercial waste collection franchise³.

Historically, Skokie businesses contracted for waste collection services with a licensed waste hauler of their choice. However, a precedent for the implementation of a commercial waste collection franchise had been established in the region, as fourteen communities in northern Illinois had been providing commercial waste collection services to a franchised service area using a single waste hauler.

To implement the franchise, the SWANCC surveyed businesses in Skokie and analyzed the rates that were charged and the levels of service that were being provided. The SWANCC found that businesses were being charged an average of \$55.00 per month for the weekly servicing of a 1.5 cubic yard dumpster in 1997. The average charge for the weekly servicing of a 2 cubic yard dumpster was \$64.25.

³ C. Brooke Beal, "Development of A Municipal Commercial Waste Franchise", Proceedings from the Solid Waste Association of North America's 10th Annual Waste Reduction, Recycling, and Composting Symposium and 3rd Annual Collection Symposium (Seattle, WA: January 11-15, 1999). Publication No. GR-REC 0010. Silver Spring, MD: SWANA, 1999.

EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

The SWANCC then developed and issued a “request for proposals” for haulers to provide commercial waste collection services to 2,200 businesses in the Skokie service area under an exclusive franchise agreement. Waste Management of Illinois was the successful proposer.

Under the commercial waste collection franchise agreement, the majority (88%) of Skokie businesses pay an average of 44% less for waste collection services than they did prior to the franchise agreement. In addition, all businesses were provided with an opportunity to recycle through the implementation of a “blue bag” recycling program. Finally, the Village of Skokie was able to freeze existing prices for the 12% of the businesses that would have seen a price increase through participation in the franchise program.

The monthly charge for the weekly servicing of a 1.5 CY dumpster dropped from \$55.00 to less than \$25.00, while the monthly charge for a 2 CY dumpster dropped from \$64.25 to \$36.00. In aggregate, the new franchise program saved Skokie businesses over \$1million per year.

Babylon, New York

In 1994, in a case referred to as the “Carbone” case, the U.S. Supreme Court ruled that “flow control ordinances” – which enabled local governments to direct all solid waste generated within a community to a particular processing or disposal facility – violated the Commerce Clause of the U.S. Constitution.

After this decision, for a variety of reasons, the Town of Babylon, New York decided to let a commercial waste collection contract that covered most of the Town’s businesses. The contract replaced a subscription system involving individual agreements between businesses and haulers. The Town’s only previous involvement in the commercial solid waste collection was to license the 17 haulers that competed for commercial business.⁴

By contracting for commercial waste collection, the Town concluded that it could provide better service to its businesses, save money, increase recycling, provide a new revenue stream to the Town, and be able to ensure the desired flow of municipal solid waste to the Town’s waste-to-energy facility.

⁴ U.S. Court of Appeals for the Second Circuit, Nos. 1818, 1814 August term, 1994. Docket Nos. 95-7129, 7131, USA Recycling, Inc. et al. v. Town of Babylon, NY.

EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

To implement the contract, the Town developed a “Request For Proposals” which it distributed to over 69 potential bidders throughout the nation.⁵ Following an evaluation of the bids received, the Town entered into a five-year Service Agreement with Babylon Source Separation Commercial, Inc. (BSSCI) in 1995 to provide solid waste collection services to all improved commercial property with the service area.⁶

To finance the contracted collection services, the Town took over billing for commercial customers. The Town imposed a \$1,500 annual benefit assessment against each business. This fee entitles all businesses to receive a “basic service” from BSSCI that consists of the weekly collection of one cubic yard of waste and one-half cubic yard of recyclables. Businesses requiring more than the basic service level are required to pay a user fee for each additional cubic yard of waste collected.

The Town concluded that the commercial waste collection contract provided better waste services to the Town’s businesses, improved access to recycling, as well as resulted in savings of between \$7 million to \$8 million per year. Collection costs were reduced dramatically from over \$12 per pickup per cubic yard in 1994 (portion of fees retained by hauler, after paying for disposal at the waste to energy facility), to \$3.98 per cubic yard in 2000, after the second procurement of the commercial collection services. Over this six year period, aggregate fees paid for solid waste collection decreased by 8.8%. The fees retained by the private haulers decreased by over 60%, whereas the revenues retained by the Town increased by over 110%.⁷

3. Appropriate Contract Structures, and Willingness to Negotiate Pro-Actively, Can Results in Significant Savings in Collection and Disposal Costs

Seattle, Washington

The City of Seattle has managed its own solid waste collection and disposal for many years. Recently, in three instances, the City’s actions illustrate how a public sector entity can influence market outcomes toward competitive results. These areas include contracting for residential and commercial collection, negotiating transfer fees, and negotiating price reductions in their long haul contract. Each is discussed below.

⁵ Hornig, Constance, “Collection Contracts: Post Carbone”, *Waste Age*, Nov. 1, 1996.

⁶ The Town of Babylon created the “Commercial Garbage Collection District No. 2” that covered most commercial real estate in the Town.

⁷ Judge Milton Mollen, Richard Roznoy, Esq, and Barbara J. Stevens, PhD. “Evaluation of Proposals for Commercial Waste Collection Services, Final Request for Proposals G39. Report to Town Board of the Town of Babylon, New York. September 26, 2000.

EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

Residential Collection Contract

Seattle procures residential collection for garbage, yard waste, and recyclables as a unit. However, the disposal services are procured separately, with one contract for residential garbage (the long haul contract) and another for yard waste processing. Thus, a firm that wishes to bid on the collection contract may do so even if it does not have access to a disposal site. This makes entry into the market as easy as possible, and increases the likelihood of attracting bids from firms other than those presently in the market. When residential contracts were last bid, residential refuse was collected by General Disposal in the North, and by Rabanco in the South. Waste Management collected recyclables in the North. The City contacted large collection firms throughout the nation, and twelve firms expressed interest; eight attended the pre bid conference, and bids were eventually received from four firms: General, Rabanco, Waste Management, and Clean Green, a consortium based in San Jose, CA. Competition resulted in innovative and responsive proposals, such as satellite tracking systems for trucks, truck based computerized listings of customers, and specification of vehicles designed to meet Seattle's exact requirements, all achieved with no increase in price.

Commercial Collection Contract

A 1995 study of the commercial waste collection system in Seattle found that rates set by the Washington Utilities and Transportation Commission (WUTC) were determined using a "minor variation of a 'cost plus pricing system'" to set rates for commercial solid waste collection in the City of Seattle.⁸ Analysis of rates in Seattle in comparison to those in other communities found that Seattle rates exceeded those of comparison groups. At the time of the study, approximately \$33 million was received as revenues by the commercial haulers in Seattle – of which approximately 21% went to pay City and State fees, 23% to drop box disposal, and 56% to collection and disposal of waste in dumpsters and cans (the rate base). Collection efficiencies were projected to yield rate savings of 17.7% to 28.5% of the rate base. An analysis of transfer station fees indicated that savings would also be available in this area.

Seattle decided to opt out of WUTC regulation for commercial garbage collection, and to let contracts by negotiating with the two collection firms certificated to collect commercial waste in Seattle. Over a period of several years, Seattle successfully negotiated agreements with the two firms. In exchange for exclusive territories, the firms agreed to a 15% reduction

⁸ Barbara J. Stevens, PhD and Jenny Teng, MBA, *Review and Analysis of Local Regulatory Options: Improving the Efficiency and Effectiveness of Commercial Garbage Collection*. (Seattle Public Utilities Department, January, 1995), p. ES-3.

EXAMPLES OF PUBLIC SECTOR ACTION TO PROMOTE COMPETITION IN THE SOLID WASTE INDUSTRY

in collection fees. Separation of collection from disposal meant that collection firms would no longer earn profits on disposal.

Additionally, Seattle negotiated regarding the prices the firms would charge if waste were tipped at the firms' transfer stations, rather than at the City's Transfer Stations. In 1995, private firms were charging \$16.41 per ton for transfer (the tip fee was \$74.41 and the fee at the rail head was \$58 per ton). Seattle computed their marginal cost of transferring a ton of waste delivered in a packer vehicle in the \$5 -\$7 range.⁹ They used this figure aggressively in negotiating the price per ton that the City would pay for waste transferred at the stations owned by the private firms. The City finally settled on a per ton fee of \$10.80 in the first year, with an annual price decrease of \$0.50 per ton, until the price per ton reached \$7.80. This began in 2001, so Seattle will reach the \$7.80 figure in 2007. The threat of competition from the public sector was sufficient to result in a price decrease of over 50%.

In sum, the negotiated contracts that Seattle signed in 2001 were beneficial to the City and the customers. Exclusive territories meant that fewer miles were driven by polluting collection vehicles to service Seattle's commercial establishments. Lower collection fees, elimination of pass through profits on disposal, and reduced transfer station tip fees meant that the City could lower commercial collection fees to the levels that prevailed in 1994. The overall savings to Seattle are approximately \$8 million per year, or about \$40 million over the life of the contract.

Long Haul Contract

In 1997 and 1998, Seattle renegotiated their long haul contract. As mentioned previously, in 1995 the tip fee per ton at the railhead was \$58. In the course of negotiations, which offered the long haul disposal contractor an increase in the term of the contract in exchange for price concessions, Seattle was able to negotiate a) an initial price decrease; b) three subsequent decreases of \$1.50 per ton each; and c) a reduction in the CPI escalation factor from 95% of the CPI to 70% of the percentage increase in the CPI. The contractor was willing to grant significant price concessions in order to avoid having the business let out by competitive bid.

⁹ Communication from John Gibson, Gibson Economics.